

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE
FINANCE, ADMINISTRATION AND OPERATIONS
COMMITTEE MEETING**

January 15, 2014

The Illinois State Toll Highway Authority held the Finance, Administration and Operations (FAO) Committee Meeting on Wednesday, January 15, 2014 at approximately 8:34 a.m. at the Central Administration Building in Downers Grove, Illinois.

Committee Members Present:

Committee Chair Mark Peterson

Director Terry D'Arcy

Director David Gonzalez

Also Attending:

Chair Paula Wolff

Committee Chair Peterson called the meeting to order and opened the floor for public comment. No public comment was offered.

CHAIR – FINANCE, ADMINISTRATION AND OPERATIONS

Committee Chair Peterson stated approval of the minutes of the FAO Committee meeting held on November 13, 2013 would be deferred to the February meeting.

EXECUTIVE DIRECTOR

Committee Chair Peterson introduced Paul Kovacs, Chief of Engineering, to provide a presentation on the Tollway's internal processes for investigating so-called "errors and omissions" in design work that lead to change orders.. See attached presentation.

Committee Chair Peterson asked about the threshold for evaluating when to seek cost recovery. Mr. Kovacs explained that the current threshold is \$50,000, and that threshold has been in place since 2005. Mr. Kovacs also stated that extending the threshold to \$100,000 could be considered.

Chair Wolff asked about the criteria for evaluation for recovery utilized by other states and by the Illinois Department of Transportation (IDOT). Mr. Kovacs stated that IDOT utilized a graduated scale, based on the cost of the work in question.

Committee Chair Peterson asked if the criteria utilized by IDOT is based on a model set by the United States Department of Transportation (USDOT). Mr. Kovacs stated that IDOT utilizes a method based on the best practices set by the American Association of State Highway and Transportation Officials (AASHTO).

Committee Chair Peterson asked if contingencies are included as a part of Tollway construction contracts. Mr. Kovacs stated that contingencies are not included in construction contracts.

Executive Director Lafleur inquired if omitting contingencies is the best practice. Mr. Kovacs explained that it is a best practice, as the current contracting model utilized by the Tollway provides an accurate picture of the cost of work, based on a goal to deliver the Move Illinois program

on time and on budget.

Director D'Arcy inquired if a \$100,000 threshold would benefit the Tollway given the amount of work planned under the Move Illinois program. Mr. Kovacs stated that raising the threshold would be a reasonable decision, based on the upcoming volume of work.

Executive Director Lafleur thanked Mr. Kovacs and his team for their work, and asked if increasing the threshold for the evaluation of the recovery of costs associated with errors and omissions would require further action of the Board. Mr. Kovacs stated that he would investigate and update the Board.

Chair Wolff asked if the consensus of the committee would be for the Tollway to consider utilizing a \$100,000 threshold. Director Gonzalez and Committee Chair Peterson stated they agreed with the \$100,000 threshold as a standard for evaluation of the recovery of costs.

Committee Chair Peterson called on John Donato, Chief of Procurement, to present the following **Procurement** items:

Item 1: Award of Contract 14-0001 to Rush Truck Centers for the purchase of Snow Plow Trucks in an amount not to exceed \$2,141,827.68 (Order Against CMS Master Contract).

Committee Chair Peterson asked if this purchase was made on an annual basis. Mr. Donato stated this item is based on the current anticipated need for the replacement of fleet vehicles for the next winter season.

Item 2: Award of Contract 13-0142 to Independent Recycling Services, Inc. and Allied Waste Services (d.b.a. Republic Services, Inc.) for the

purchase of Waste-Hauling Services in an aggregate amount not to exceed \$360,654.00 (Order Against CMS Master Contract).

Mr. Donato then called upon Prasad Alavilli, Senior Manager of Strategic Initiatives, to present an update on the Enterprise Resource Planning (ERP) process. See attached presentation.

Committee Chair Peterson asked if a vendor was currently providing this service. Executive Director Lafleur responded that the ERP is a new initiative and is being undertaken as a result of audit findings indicating a need to implement such a process. Mr. Donato further stated that the system in development would replace a number of independent systems currently used by the Tollway.

Chair Wolff asked if the process utilized by the Tollway had been utilized by other agencies and if the process of those agencies was similar to the one being undertaken by the Tollway. In addition, Chair Wolff asked if such processes involved retaining outside consulting services. Mr. Alavilli stated other agencies have utilized this approach and anticipated the process will take between 3-5 years to complete.

Chair Wolff inquired if the work requested by the Tollway under the contract was similar to work performed by other agencies undertaking such a process and if the bidder had performed similar work at other agencies. Mr. Alavilli stated that the bidder under consideration had performed work in other states for other tolling and transportation agencies.

Chair Wolff asked if the bidder under consideration had provided references and if the references were verified by the Tollway. Mr. Donato stated references were verified.

Committee Chair Peterson asked for further details of the contract process. Mr. Donato explained that the contract is for four years, along with several years of renewal options. Mr. Donato further explained the contract process.

Committee Chair Peterson asked if the vendor under consideration had previously performed work for other agencies, which would be considered similar to the work in the Tollway contract. Mr. Donato explained that the work required under the Tollway contract was similar to that of other agencies which the vendor had previously performed work.

Executive Director Lafleur stated that evaluation criteria for this item would be provided to the Board and could be discussed at the upcoming Board of Directors meeting. Chair Wolff agreed that sharing the criteria would be appreciated by Directors.

Item 3: Award of Contract 13-0002 to International Consulting Acquisition Corporation (d.b.a. ISG Public Sector) for the purchase of Enterprise Resource Planning (“ERP”) Advisory and Management Services in an amount not to exceed \$4,029,500.00. (Tollway Request for Proposal).

Item 4: Award of Contract 13-0099 to Martin Implement Sales, Inc. and WHE, Ltd. For the purchase of Mowing Tractors and Equipment in an aggregate amount not to exceed \$581,711.00 (Tollway Invitation for Bid).

Item 5: Award of Contract 13-0188 to Thelen Materials, LLC for the purchase of Winter Roadway Abrasives in an amount not to exceed \$329,196.00 (Tollway Invitation for Bid).

Item 6: Award of Contract 14-0002 to Thelen Materials, LLC for the purchase of Winter Roadway Abrasives in an amount not to exceed \$158,358.00 (Tollway Emergency).

Committee Chair Peterson asked if Procurement Items 5 and 6 were both emergency procurements. Mr. Donato explained that Item 5 was a standard procurement and that Item 6 was an emergency procurement. However, the vendor utilized the same pricing structure for both items.

Director D'Arcy made a motion for approval of **Procurement Items 1 through 6**; seconded by Director Gonzalez. The motion was approved unanimously.

Committee Chair Peterson called on Mr. Kovacs to present the following **Engineering** Items:

Item 1: Award of Contract I-13-4620 to F.H. Paschen, S.N. Nielsen & Associates, LLC for Bridge Demolition and Grading on the Jane Addams Memorial Tollway (I-90) from Milepost 74.3 to Milepost 74.4 (Des Plaines Oasis), in the amount of \$4,066,901.50.

Committee Chair Peterson inquired as to the time frame for vendors located in the oasis to vacate the facility. Mr. Kovacs responded that the vendors will depart by April 1, 2014. Chair Wolff inquired if the fuel stations located at the oasis would remain in place. Mr. Kovacs stated they would.

Item 2: Award of Contract I-13-5686 to Plote construction, Inc. for Retaining Wall and Noise Wall Construction on the Jane Addams Memorial Tollway (I-90) from Milepost 56.8 (West of IL 25) to Milepost 59.1 (IL 59), in the amount of \$12,570,063.58.

Item 3: Award of Contract I-13-4165 to Meade, Inc. for Intermediate Power Distribution and Communication (IPDC) Facility Fabrication and Installation on the Jane Addams Memorial Tollway (I-90) from Milepost 18.5 (East of Kishwaukee River) to Milepost 53.1 (West of Elgin Plaza), in the amount of \$10,366,603.06.

Committee Chair Peterson asked if the contract applied to the entire I-90 corridor. Mr. Kovacs stated the contract would cover the area from the Elgin toll plaza to the Cherry Valley Interchange.

Item 4: Acceptance of Proposal from Parsons Transportation Group, Inc., on Contract RR-13-4116 for Design Services for Roadway Reconstruction on the Reagan Memorial Tollway (I-88) from Milepost 138.1 (York Road Plaza) to Milepost 140.5 (I-290), in an amount not to exceed \$3,348,578.95.

Item 5: Acceptance of Proposal from Graef-USA Inc., on Contract I-13-4625 for Design and Construction Management Upon Request Services on the Elgin O'Hare Western Access (EOWA), in an amount not to exceed \$3,000,000.00.

Item 6: Acceptance of Proposal from Civiltech Engineering, Inc., on Contract I-13-4626 for Construction Management Services for Advance Work on the Elgin O'Hare Western Access (EOWA) from I-290 to IL 83, in an amount not to exceed \$4,247,645.00.

Item 7: Acceptance of Proposal from Omega & Associates, Inc., Lisle IL (MBE)/AMEC Environment & Infrastructure, Inc., (JV), on Contract I-13-4152 for Construction Management Upon Request Services on the Jane Addams Memorial Tollway (I-90), in an amount not to exceed

\$7,000,000.00.

Chair Wolff asked if, based on the complex nature of the work, a joint venture contract was advisable for this work. Mr. Kovacs agreed that this joint venture proposal was the best option for the project.

Item 8: Acceptance of Proposal from EJM Engineering, Inc. (D/WBE), on Contract RR-13-4151 for Design Upon Request Services, Systemwide, in an amount not to exceed \$6,500,000.00.

Item 9: Acceptance of Proposal from Infrastructure Engineering, Inc. (MBE), on Contract RR-13-5681 for Design Upon Request Services, Systemwide, in an amount not to exceed \$3,999,969.56.

Item 10: Acceptance of Proposal from David Mason & Associates of Illinois, Ltd. (MBE)/ Horner & Shifrin, Inc. (JV), on Contract RR-13-9149 for Design Upon Request Services, Systemwide, in an amount not to exceed \$2,500,000.00.

Chair Wolff noted that David Mason & Associates of Illinois had unsuccessfully bid on previous items and inquired if bids could be submitted on more than one item in a Professional Services Bulletin. Mr. Kovacs explained that potential bidders can select more than one item in a bulletin to bid on.

Item 11: Acceptance of Proposal from Cotter Consulting, Inc. (D/WBE)/ CivCon Services, Inc. (D/MBE) (JV), on Contract RR-13-4153 for Construction Management Upon Request Services, Systemwide, in an amount not to exceed \$6,500,000.00.

Item 12: Acceptance of Proposal from Accurate Group, Inc. (D/MBE),

on Contract RR013-5682 for Construction Management Upon Request Services, Systemwide, in an amount not to exceed \$5,000,000.00.

Item 13: Acceptance of Proposal from Atlas Engineering Group, Ltd. (D/WBE), on Contract RR-13-9150 for Construction Management upon Request Services, Systemwide, in an amount not to exceed \$2,500,000.00.

Item 14: Acceptance of Proposal from HBK Engineering, LLC, on Contract RR-13-4154 for Utility Relocation and Identification Upon Request Services, Systemwide, in an amount not to exceed \$5,000,000.00.

Item 15: Acceptance of Proposal from S.T.A.T.E. Testing, LLC, on Contract RR-13-4155 for Materials Engineering Upon Request Services, Systemwide, in an amount not to exceed \$5,000,000.00.

Director D'Arcy made a motion for approval of **Engineering Items 1 through 15**; seconded by Director Gonzalez. The motion was approved unanimously to move to the full Board consent agenda.

Item 16: Acceptance of Proposal from BCP Tollway Partners (JV) on Contract I-11-5633 for Supplemental Design Services for Reconstruction and Add Lane on the Jane Addams Memorial Tollway (I-90) from Milepost 41.8 (U.S. Route 20) to Milepost 53.8 (Elgin Plaza) in the amount of \$178,500.00 from \$12,232,048.16 to \$12,410,548.16. Under Review. (Director D'Arcy recusal).

Director Gonzalez made a motion for approval of **Engineering Item 16**; seconded by Committee Chair Peterson. The motion was approved to move to the full Board consent agenda, with Director D'Arcy recusing himself.

Item 17: Extra Work Order on Contract I-12-4066 to Lorig

Construction Company for Roadway Widening & Bridge Reconstruction, I-57 Ramp B on the Tri-State Tollway (I-294) at I-294 at I-57 Interchange, from Milepost. 7.5 to Milepost 7.8, in the amount of \$285,000.00.

Item 18: Final Release of Retainage on contract I-13-4091 to Reyes Group, Ltd. (DBE) for Municipal Utility Relocation on the Tri-State Tollway (I-294) at I-294/I-57 Interchange, from Milepost. 7.7 to Milepost 8.4, in the amount of \$45,779.02.

Item 19: Final Release of Retainage on contract RR-13-4094 to Earthwerks Land Improvement & Development Corp. for Drainage Improvements on the Tri-State Tollway (I-294) from Milepost 9.1 (Midlothian Creek) to Milepost 9.6 (Rexford Avenue), in the amount of \$37,273.16.

Item 20: Final Release of Retainage on contract I-11-5629 to R.W. Dunteman Company for Interchange Grading and Dixie Creek Realignment, in the amount of \$173,590.24.

Item 21: Amended DiBenedetto (Identification of Real Estate Parcels associated with the Jane Addams Memorial Tollway (I-90)). Cost to Tollway: N/A.

Item 22: Resolution Authorizing the Augmenting of Funds for Land Acquisition for the Elgin O'Hare Western Access (EOWA), Project I-11-4011.

Committee Chair Peterson asked about the amount of the current authorization for land acquisition, as well as the total budget for land acquisition for the EOWA project. Mr. Kovacs responded that the

original authorization was for \$30 million and this item would increase the authorization to \$160 million. Executive Director Lafleur stated that the current total budget for land acquisition for the EOWA project is \$563 million.

Director D'Arcy made a motion for approval of **Engineering Items 17 through 20** and **Engineering Item 22**; seconded by Director Gonzalez. The motion was approved unanimously to move to the full Board consent agenda.

Engineering Item 21 was deferred to the January Board of Directors meeting.

Chair Wolff complimented the Engineering Department on the diversity of vendors and contractors, as well as the additional contractors who are performing work for the Tollway for the first time. Chair Wolff also complimented Executive Director Lafleur and Chief of Staff Mike Stone for their leadership in implementing greater diversity in Tollway contracting.

Committee Chair Peterson called on David Goldberg, General Counsel, to present the following **Legal** items:

Item 1: An Intergovernmental Agreement with Village of Gilberts. Cost to the Tollway: \$480,000

Item 2: An Intergovernmental Agreement with Village of Hampshire. Cost to the Tollway: \$0

Item 3: An Intergovernmental Agreement with Village of Itasca and the Illinois Department of Transportation. Cost to the Tollway: \$0

Item 4: A First Addendum to the Intergovernmental Agreement with the Northwest Suburban Municipal joint Action Water Agency. Cost to the Tollway:

Legal Item 4 was deferred to a future meeting.

Item 5: Litigation Settlement- Santilli v. Mauro Cost to the Tollway: As discussed in Executive Session.

Item 6: Litigation Settlement- Lenhardt v. Mauro Cost to the Tollway: As discussed in Executive Session.

Director D’Arcy made a motion for approval of **Legal Items 1 through 3**; seconded by Director Gonzalez. The motion was approved unanimously to move to the full Board consent agenda.

Legal Items 5 and 6 were deferred to the January Board of Directors meeting.

There being no further business, Committee Chair Peterson requested a motion to adjourn. Motion to adjourn was made by Director D’Arcy; seconded by Director Gonzalez. The motion was approved unanimously.

The meeting was adjourned at approximately 9:41 a.m.

Minutes taken by: 

Robert J. Baren
Assistant Board Secretary
Illinois State Toll Highway Authority



Errors and Omissions

Finance Administration Operations Committee

January 15, 2014

Agenda

- ▶ **Reasons contracts and plans change**
- ▶ **Errors and omissions defined**
- ▶ **Tollway process**
- ▶ **Successful design track record**
- ▶ **Minimal recoverable costs to date**
- ▶ **Continually seek best practices**
- ▶ **Discussion**

Reasons Plans and Contracts Change

Change is common in large capital programs

- ▶ **Accelerated program schedules**
- ▶ **Differing site conditions**
 - ▶ Unidentified utilities
 - ▶ Unidentified and unsuitable soil conditions
- ▶ **Specification changes**
 - ▶ Tollway initiated
 - ▶ Other agency initiated
- ▶ **Balance final field measurements**
- ▶ **Errors and omissions**
- ▶ **Miscellaneous (such as weather)**

Errors and Omissions Defined

- ▶ **Error:** An incorrect, conflicting, insufficient or ambiguous plan or specification detail or contract administration action
- ▶ **Omission:** A failure to indicate on drawings, specifications or other products of professional service the requirement for a feature, system or equipment necessary for the complete and proper function of a project

Tollway Process

Contract Cost Change Controls Committee (C5) comprised of representatives from Engineering, Procurement, Finance and Audit reviews all construction contract changes



C5 Committee identifies potential E and O items



E and O items of more than \$50,000 in construction change value reviewed in detail for possible cost recovery



Design consultant notified and provided an opportunity to submit additional information or dispute E and O



Chief Engineer makes final determination

Excellent Design Track Record

- ▶ Qualified and professional people performing the work
- ▶ Perform detailed plan reviews at each design submittal
- ▶ Manage quantities in construction process effectively
 - ▶ One measure of design success is the cost of changes in construction (CO/EWOs)
 - ▶ The Tollway has substantially lower costs of construction changes compared to industry average

Percentage of change compared to total construction costs	
Industry average*	5 to 10 percent
Illinois Tollway	Less than 1 percent

*American Council of Engineering Consultants Library: Model for Qualifying the Impact of Change Orders on Project Costs for US Roadwork, December 2009

Minimal Recoverable Costs To Date

- ▶ **Few potential E and O items identified**
 - ▶ From 2005 to 2013, nearly 15,000 Authorizations to Proceed (ATPs) approved; 243 identified as potential E and O for further evaluation
- ▶ **Recoverable costs are not the total value of the change, but those costs that would not have been incurred had the plans been correct**
- ▶ **Of the 209 potential E and O items that have been evaluated to date, only \$20,000 was identified as recoverable**

Continual Review for Best Practices

Reviewed recommended process American Association of State Highway and Transportation Officials (AASHTO) and benchmarked local agencies and other states

- ▶ Track changes due to E and O
- ▶ Identify procedure to review significant E and O
- ▶ Use committee of experts for significant E and O
- ▶ Maintain appropriate threshold for E and O review
- ▶ Involve design consultant in discussions

Arizona Department of Transportation
California Department of Transportation
Chicago Department of Aviation
Illinois Department of Transportation
Texas Department of Transportation
Wayne County Airport Authority

DISCUSSION

- ▶ **What other best practices should we consider as part of our evaluation of the 2013 E and O items?**
- ▶ **Moving forward, what should be the threshold for evaluating recovery of costs?**
- ▶ **Is there value in a third-party review that warrants the cost?**



Appendix

Compliance with AASHTO

- ▶ **AASHTO recommended process:**
 - ▶ Discovery – Agency conducts initial review of circumstances
 - ▶ Initial notification – Agency notifies consultant, requests their involvement
 - ▶ Investigation/decision on liability
 - ▶ Notification to consultant
 - ▶ Review meeting(s) with consultant
 - ▶ Alternative dispute resolution
 - ▶ Recovery and collection
 - ▶ Litigation

- ▶ **Because litigation is expensive and time-consuming, AASHTO encourages agencies to build methods of dispute resolution into their contracts. These methods should encourage:**
 - ▶ Bringing together all parties quickly
 - ▶ Focusing on fixing the design problem first, then addressing cost responsibility and recovery
 - ▶ Consulting a state attorney general’s office for information on appropriate alternative dispute resolution procedures
 - ▶ Instituting a process that is fair and moves quickly to resolution

Local Agency Benchmarks

▶ IDOT

- ▶ Consultants notified of liability have 30 days to respond, process and move to dispute resolution if necessary
- ▶ E and O threshold:
 - ▶ If construction less than \$2 million, E and O amount limited to \$20,000
 - ▶ If construction between \$2 and \$10 million, E and O amount limited to 1 percent of contract
 - ▶ If construction greater than \$10 million, E and O amount limited to \$100,000

▶ Chicago Airport System

- ▶ Uses reviewing committee that reviews alleged E and O, prepares written analysis and meets with consultants to resolve E and O

▶ Wayne County Airport Authority

- ▶ Designer pays an administrative service fee of 5 percent of actual cost of each construction change

Arizona DOT E and O

- ▶ **As E and O are identified**, ADOT performs a review, notifies the consultant, documents their decision on whether a claim is justified and content of the claim, and provides for consultant administrative review if the matter cannot be resolved (“MGT 00-2...,” Nov. 3, 2000, pp. 2-3).
- ▶ **ADOT will estimate additional costs** arising from the E and O based on the amount above that expected in the contractor’s bid had the E and O not occurred.
 - ▶ If the additional cost exceeds the lesser amount of five percent of the contractor’s bid or \$20,000, ADOT may file a formal claim. The amount of the initial claim will be the additional costs less the threshold value. Any future E and O claims on the project will not be subject to reduction by the threshold value.
- ▶ **Unresolved claims over \$100,000** will be forwarded to the attorney general’s office.

CalTrans E and O

- ▶ **As a guideline**, contract change orders (CCOs) greater than \$200,000 related to design changes, conflicts, ambiguities, errors and omissions and cumulative CCOs exceeding 10 percent of the construction project bid likely warrant further review and the matter is forwarded to the chairperson of the Management Review Panel (MRP).
- ▶ **The MRP submits its recommendation** to the chief engineer. If the chief engineer approves further action, he will appoint a representative or team to provide notice to the consultant and enter into informal discussions to resolve the matter. Caltrans' legal division and the chief engineer will be kept apprised of the status of discussions.
- ▶ **Alternative dispute resolution methods may be considered** if agreeable to both parties. The consultant should be allowed to take part in discussions of additional costs due to design liability for which he may be held liable.
- ▶ **If a resolution is not attained**, the representative will consult with the legal division and recommend to the chief engineer if additional action should be taken.

Texas DOT E and O

- ▶ **Change orders are tagged with a reason code identifying the cause of the change.**
- ▶ **If an E and O results in a change order,** TxDOT must notify the consultant and give that firm an opportunity to address the matter. The amount of the recoverable cost is that which would not have been incurred had the plans been correct.
- ▶ **The consultant must reimburse these costs** in cash; in-kind services by the consultant are not acceptable as payment.
- ▶ **A certified initial notification letter will be sent** to the consultant describing the alleged E and O, related additional costs, and references to pertinent events. The consultant will be asked to respond within 30 days. If the consultant does submit payment, it is credited according to the procedural guidelines as a refund of expense on the affected construction project.
- ▶ **If the consultant does not make payment,** TxDOT may consider legal action. If litigation is the only remaining recourse, TxDOT will work with the state attorney general's office.



THANK YOU



**Enterprise Resource Planning (ERP)
Advisory Services**

January 15, 2014

Purpose

A major initiative to replace Tollway's aging mainframe systems and miscellaneous supporting systems with an Enterprise Resource Planning (ERP) suite of applications across Finance, Human Resources, Procurement and others.

Advisory services

- Start-to-finish subject matter expertise and assistance with RFP preparation and planning

Independent verification and validation (IV&V)

- Quality and integrity of deliverables, risk mitigation and validation

Implementation services

- Prioritized, phased implementation of ERP

Additional, as needed

- To bridge functionality 'gaps' in ERP with additional software, as needed

Approach and Timeline

